IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 22186 of 2004

Between:

B. Sharadamma, W/o B. Laxmanna, R/o.1/266

Main road, Yemmiganur, Kurnool District.

..... PETITIONER

AND

1. Government of A.P., rep. by Secretary, MA & UD,

Municipal Administration & Urban Development,

Secretariat, Hyderbad.

2. The Commissioner, Yemmiganur Municipality,

Yemmiganur Town, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in issuing the impugned order E.C.R.No.16/2004/TPS dt.25-11-2004 in violation of principles of natural justice as bad, illegal and opposed to all canons of justice and consequently direct the respondents not to interfere with the possession of petitioners shop D.No.1-118/9-1 on Main Road, Yemmiganur without following the due process of law.

For the Petitioner: MR.P.SRINIVASULU, Advocate

For the Respondent No.1: GP FOR MUNCIPAL ADMN. & URBAN DEV.

For the Respondent No.2: Mr. K.M. Mahendra Reddy, Standing Counsel for Yemmiganur Municipality.

The Court at the admission stage made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel for second respondent-Municipality, and with their consent the writ petition is disposed of at the stage of admission.

The grievance of the petitioner is that the second respondent without giving any notice or providing any opportunity of hearing, issued the order in E.C.R. No.16/2004/TPS, dated 25-11-2004 deciding to evict him from leased electrical shop belonging to the second respondent-Municipality, bearing door No.1-119/9-1 situated in Main Road of Yemmiganur. The petitioner states that the order of this Court in W.P. No.21441 of 2004 referred to in the impugned order has nothing to do with the petitioner, for he has not filed the same. He also states that he did not encroach into any public place.

The tenor of the impugned order is that the petitioner encroached into the public road and raised some structures, which are causing inconvenience to the pedestrians and also to the movement of vehicular traffic, and therefore, called upon the petitioner to remove the said encroachments within a period of seven days, lest necessary action would be taken in removal of those encroachments.

In the circumstances, the writ petition is disposed of with the following directions:

Though the petitioner states that the second respondent is trying to evict him from the shop in question, a reading of the impugned order shows that it calls upon the petitioner to remove the encroachments. He submitted that he has not encroached the public street, and that if opportunity is given to him, he would prove the same. Since the impugned order calling upon the petitioner to remove the encroachments has been passed without notice to the petitioner, the same shall be treated as show-cause notice, to which the petitioner shall submit his explanation

within a period of ten days from today to the second respondent, and upon submission of such explanation, the second respondent shall consider the same in accordance with law, and take appropriate steps in accordance with the decision it may arrive at after considering the explanation that may be submitted by the petitioner to the impugned order, which is treated as a show cause notice. Till then, status quo existing as on today shall be maintained by the parties.

The writ petition is disposed of accordingly. No costs.

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N.V. RAMANA, J

Date: 01-12-2004

Note:

Issue wire at party's costs.

(Bo)

Ksr/Svv

To

1. The Secretary, Municipal Administration & Urban Development,
Government of A.P., Secretariat, Hyderbad.

2. The Commissioner, Yemmiganur Municipality,

Yemmiganur Town, Kurnool District.

3. Two CCs. to the Government Pleader for Municipal Administration and
Urban Development, High Court Buildings, A.P., Hyderabad (OUT).

4. Two CD copies.